

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9674 OF 2022

Sumit s/o Keshavrao Tippanbone,
Age 18 years, Occ. Education,
R/o. Nadihattarga, Tq. Nilanga,
Dist. Latur.

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai.
- 2) The Scheduled Tribe Caste Certificate
Verification Committee, Kinwat,
Through its Dy. Director (R)
at Aurangabad.
- 3) The Commissioner & Competent Authority,
Commissionerate of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, new Excelsior building,
A.K. Naik Marg, Fort, Mumbai.

... **Respondents**

...

Advocate for the Petitioner : Mr. S.M. Vibhute
A.G.P. for the Respondents/State : Mr. S.G. Sangale

CORAM : **MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : **20.09.2023**

PER COURT :

Heard.

2. Rule. Rule is made returnable forthwith. Learned A.G.P. waives service for the respondents/State. At the request of the parties, the matter is

heard finally at the stage of admission.

3. The petitioner is challenging the order of the respondent-scrutiny committee confiscating and cancelling his certificate of 'Koli Mahadev' scheduled tribe by resorting to Section 7(1) of the Maharashtra Act XXIII of 2001.

4. The learned advocate for the petitioner Mr. Vibhute would submit that the approach of the committee is incorrect. It has not appreciated the evidence in the proper perspective. The order is perverse, arbitrary and capricious. He would submit that the consistent school record of the blood relatives has not been properly appreciated. The reply given by the petitioner to the vigilance report has also not been considered. Inference is drawn by referring to the entries in the school record of the persons who are not related to the petitioner.

5. Mr. Vibhute would then submit that even the committee has grossly erred in appreciating the oldest school entry in respect of cousin grandfather Mohan Govinda Tippanbone of 04.10.1961 wherein his caste was mentioned as 'Mahadev Koli'. The committee has merely relied upon the observations in the vigilance report but has not independently undertaken any exercise to verify the inference while discarding this oldest record. He would also tender across the bar a coloured photo copy of the relevant page of the school register containing that entry for our reference.

6. He would submit that insistence of the committee for revenue record is also incorrect. Merely because the petitioner does not possess any land that cannot be the ground to discard the claim for social status. He would then submit that the committee has illegally applied area restriction. The committee was apparently annoyed due to the fact that the petitioner had filed a contempt proceeding against its members who were not obeying the directions of this Court for deciding his proposal expeditiously. He would, therefore, submit that the impugned order be quashed and set aside.

7. Mr. Vibhute, in the alternative, submits that the petitioner be granted opportunity to make some attempt to satisfy the committee about his claim by producing additional evidence which would enable the committee to call for the original school record of Mohan Govinda Tippanbone and record its own observations.

8. The learned A.G.P would support the order. He would submit that there are several inconsistent entries in the school record of the petitioner's blood relations mentioning them to be 'Koli' or 'Hindu Koli'. He would submit that 'Koli' falls in 'Other Backward Class' category whereas the petitioner claims to be belonging to 'Koli Mahadev' scheduled tribe. No fault can be found with the committee in referring to all these entries as 'Koli' to be contrary entries.

9. The learned A.G.P would then submit that the school record being heavily relied upon by the petitioner in respect of his cousin grand father Mohan Govinda Tippanbone was *ex facie* seen to be manipulated and the committee had no reason not to rely upon the observations of the vigilance officer in his report. He would submit that while exercising the powers under Article 226 of the Constitution of India this Court cannot sit in appeal while examining legality of the order passed by the scrutiny committee. Even if some other view is possible this Court cannot substitute its view. The decision taken by the committee is clearly pursuant to the plausible inference drawn on the basis of the evidence and the petition be dismissed.

10. We have carefully considered the rival submissions and perused the papers. The petitioner has been relying upon few favourable entries wherein, in the school record and other documents he, his brother and father have been described as 'Koli Mahadev'. However, all this record is of recent origin, of the period between 1979 to 2021.

11. The only oldest record being heavily relied upon by the petitioner is in respect of his cousin grand father Mohan Govinda Tippanbone. We shall

discuss that a little later.

12. As against the favourable record of the recent origin, the committee has, based its inference on the vigilance enquiry which referred to certain contrary entries wherein petitioner's blood relations have been shown to be 'Koli; which falls under 'Other Backward Class' category as distinguished from 'Koli Mahadev' which is a scheduled tribe. The vigilance report contains list of such contrary entries. In response to the report, the petitioner has denied any blood relation with some of those individuals mentioned at Sr. No. 3, 4, 7, 10 to 12 and 14 to 21 in table No. 3 of the vigilance report. Excluding those entries, following would be the contrary entries regarding which the petitioner has not raised any dispute :

It appears that all entries are added subsequently in different ink and different handwriting :

Sr. No.	Registration No.	Name of Applicant	Relationship with applicant	Available evidence	Name of Caste mentioned in evidence	Date of birth	Remark
						Date of admission	
2)	69	Hanmant Bhimrao Tippanbone	Cousin grand father	Z.P Primary School Nadihattarga Tq. Nilanga	Hindu Koli	Birth date: 20/02/1959 Admission : 30.07.1965	
5)	212	Hanmant Bhimrao Tippanbone	Cousin grand father	Z.P Primary School Nadihattarga Tq. Nilanga	Hindu Koli	Birth date: 20/02/1959 Admission : 27.07.1970	
6)	317	Kamlakar Vishwanath Tippanbone	Cousin uncle	Z.P Primary School Nadihattarga Tq. Nilanga	Hindu Koli	Birth date: 10/08/1968 Admission : 28.06.1974	
8)	504	Savita Shrimant Tippanbone	Cousin aunt	Z.P Primary School Nadihattarga Tq. Nilanga	Hindu Koli	Birth date: 05/11/1972 Admission : 01.08.1978	
13)	572	Madhukar Vishwanath Tippanbone	Cousin Uncle	Z.P Primary School Nadihattarga Tq. Nilanga	Hindu Koli	Birth date: 16/09/1974 Admission : 30.06.1980	

As can be seen, these are apparently contrary entries regarding which the petitioner's explanation in the reply to this report is clearly lame. He tried to

justify this by saying that those were wrongly made due to illiteracy in the family. We are not ready to appreciate this explanation.

13. This leaves us with the only vital favourable entry being relied upon by the petitioner in respect of the cousin grand father Mohan Govinda Tippanbone of 04.10.1961. The committee relying upon the vigilance report has discarded this entry substantiating the inference drawn by the vigilance officer on the ground that this entry has been made in the school register in a different handwriting and different ink. The learned advocate for the petitioner having made available a coloured photo copy of the relevant page containing that entry, we could ourselves examine this record and find that the inference drawn by the vigilance officer and the committee is a plausible one. This entry has appeared as a last entry of the page and is clearly seem to have been inserted at some later point and is apparently in a different ink and in a different handwriting.

14. Besides, it is a school register wherein entries are made as and when students are admitted. The entry in respect of Mohan Govinda Tippanbone appears at Sr. No. 126 and the date of admission is stated to be 04.10.1961. This page contains three more earlier entries from Sr. No. 123 to 125. Even those three students were admitted in the school on 01.09.1961, 01.10.1961, 01.10.1961 respectively. *Ex facie*, all these three entries which have been made within a span of one month are in identical handwriting. If the petitioner's cousin grand father Mohan was also admitted to the school on 04.10.1961, if the entries were being made in the normal course those would have been in the handwriting of the same individual. That being not the case, we find no hesitation in concurring with the conclusion drawn by the scrutiny committee.

15. There is one more aspect, in this entry in respect of Mohan Govinda Tippanbone word 'Mahadev Koli' appears in Column No. 6 which is meant to mention religion and not caste. In respect of three earlier entries in that

column 'Hindu' has been mentioned in respect of first entry and in the next two entries the sign of 'ditto' (-"-) appears. Whereas, in respect of Mohan this column mentions 'Hindu Mahadevo Koli'. If this column was meant to record religion, adding the words 'Mahadev Koli' which is a tribe after the word 'Hindu' also makes this record vulnerable. Though this is not the reasoning resorted to by the committee, we are merely pointing out these circumstances which in our view justify the inference drawn by the committee that this entry is suspicious one and is not reliable enough and the petitioner is attempting to secure the social status by resorting to creation of false record.

16. It is trite that this Court cannot sit in appeal while exercising the powers under Article 226 of the Constitution. When we have independently scrutinized the evidence being relied upon by the petitioner, the petitioner having failed to substantiate his claim, we find no perversity or arbitrariness in the order under challenge.

17. The Writ Petition is dismissed.

18. Rule is discharged.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-